

REMARKS

Claims 1-43 are pending, claims 1, 2, 4-15, 29-33 and 38-41 having been elected by applicants pursuant to the May 12, 2004 Response to Restriction/Election Requirement posed in this application. Claims 1 and 29 are amended. Claims 3, 10, 11, 16-28, 34-37 are withdrawn. Claims 12 and 13 have been previously cancelled. Claim 32 is listed as “original”, the status of claim 32 as “withdrawn” having been removed per item 2 of the Office Action. No new matter is submitted. Accordingly, entry of the Amendment is respectfully requested.

In item 1 of the Office Action, the Restriction/Election Requirement with respect to claims 10-12 is maintained. In response thereto, Applicants note that claim 12 has been previously cancelled, thus any restriction/election thereof is moot. With respect to claims 10 and 11, Applicants further note that the alignment means of claims 10 and 11 is positioned in a body that may be a disk shape (Fig. 1A) or a sleeve shape (Figs. 3A-3C) as indicated in the Specification at page 10, line 17-21. Thus, Applicants maintain their traversal of the Restriction/Election requirement with respect to claims 10 and 11. Nevertheless, claims 10 and 11 are indicated as “withdrawn” in the current listing of claims provided in this Amendment in order to comply with the requirements set forth in the Office Action. Notwithstanding the withdrawn status of claims 10 and 11 in the current Listing of Claims, Applicants respectfully request that the Restriction/Election Requirement with respect to claims 10 and 11 instead be withdrawn and that re-instatement and continued examination of claims 10 and 11 within elected Species I occur.

Applicants appreciate the withdrawal of the Restriction/Election requirement of claim 32 in item 2 of the Office Action.

With respect to item 3 of the Office Action, Applicants refer to the two immediately preceding paragraphs for comments with respect to the current status of claims 10, 11 and 32 in

particular.

In item 4 of the Office Action, claims 31-33 are objected to for the omission of claim 31 from the Listing of Claims in the Amendment filed October 19, 2004. Applicants do not understand this objection as the Applicants copy of the Amendment filed October 19, 2004 (copy attached with date-stamped receipt), included claim 31. Thus, Applicants presume that any omission of claim 31 occurred as a result of inadvertent scanning or image wrapper formatting errors in processing the Amendment for the public or private PAIRS program provided by the U.S. Patent and Trademark Office. In any event, claim 31 is included again in the current Listing of Claims provided in the within Amendment. Accordingly, withdrawal of the objections to claims 31-33 is respectfully requested.

In item 5 of the Office Action, claims 1, 2, 4, 5, 7-9, 13-15, 29-33, 38, 39 and 41-43 are rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent No. 6,117,147 to Simpson, et al. (hereafter "Simpson") in view of U.S. Patent Publication No. 2001/0044631 A1 to Akin, et al (hereafter "Akin"). The rejection is respectfully traversed.

Applicants' invention with respect to elected independent claims 1 and 29 comprises a device and method, respectively, for creating an anastomosis between first and second vessels using an extravascular body comprised at least partly from resorbable sponge material. The extravascular body is secured to portions of a first vessel and a second vessel, the body having an opening or hole therethrough, such that fluid communication between the first vessel and the second vessel is achieved by the alignment of the first and second vessels with the opening or hole in the body. The portion of the first vessel at least is inserted directly within the extravascular body.

Simpson discloses a device and method for reinforcing an anastomotic site and graft vessel. The device 14 and method of Simpson require a body 16 coupled to a sleeve 12 and a cuff 18. The sleeve 12 receives the graft vessel (col. 3, lines 1-3 & 7-8), whereas the cuff 18

engages the anastomotic site (col. 3, lines 13-16). The body 16 connects the sleeve 12 to the cuff 18. Thus, the graft vessel in Simpson is only indirectly connected, via the sleeve 12 and body 16, to the cuff 18. Such indirect relationship of the graft vessel with the cuff 18 is contrary to the direct insertion of the first vessel within the opening of the extravascular body as recited in claims 1 and 29 of Applicants' invention.

To the extent that Akins is applied in combination with Simpson for suggesting the resorbable aspect of an anastomotic device, Applicants assert that notwithstanding any suggestion of bioresorbable aspects in Akins, Akins more concisely discloses an intra-vascular device 1. The intravascular device 1 of Akins is exactly opposite the extravascular body into which a vessel is directly inserted as recited in claims 1 and 29 of Applicants' invention, from which the remaining elected claims directly or indirectly depend. Moreover, Akins necessarily fails to teach or suggest the direct insertion of a vessel into the extravascular body of Applicants' invention, as also recited in claims 1 and 29. Thus, neither Simpson nor Akins, alone or in combination, teach, disclose or suggest the combination of features recited in claims 1 and 29, from which all remaining elected claims depend. Accordingly, withdrawal of the 35 U.S.C. §103(a) rejection of claims 1, 2, 4, 5, 7-9, 13-15, 29-33, 38, 39 and 41-43 based on Simpson and Akins is respectfully requested.

In item 11 of the Office Action, claims 6 and 40 are rejected under 35 U.S.C. §103(a) as allegedly obvious over Simpson in view of Akin and further in view of U.S. Patent Publication No. 2001/0065545 to Leonhardt, et al. (hereafter "Leonhardt"). The rejection is respectfully traversed.

Applicants' invention with respect to claims 1 and 29, from which claims 6 and 40 respectively depend, is discussed above. Likewise, Simpson and Akin are discussed above.

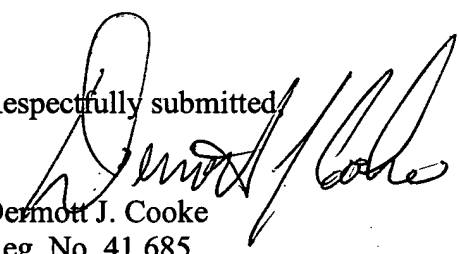
Leonhardt discloses an expandable vascular stent that is urged against an intraluminal vascular wall using a catheter balloon. Notably, Leonhardt does not even apply to the

anastomotic arts. Moreover, Leonhardt fails to overcome the deficiencies of Simpson and Akin with respect to the extravascular body having an opening into which the first vessel is directly inserted as discussed above with respect to claims 1 and 29 of Applicants' invention. Thus, none of Simpson, Akin nor Leonhardt, alone or in combination teach, disclose or suggest the combination of features recited in claims 1 and 29, from which claims 6 and 40 depend. Accordingly, withdrawal of the 35 U.S.C. §103(a) rejection of claims 6 and 40 based on Simpson, Akins and Leonhardt is respectfully requested.

Applicants submit that the claims presented patentably distinguish over the art applied. Accordingly, no 35 U.S.C. §112 issues existing, rejoinder of all non-elected claims and prompt allowance of the application in view of the remarks set forth herein is respectfully requested.

Should the Examiner determine that anything further is desirable to place this application in even better form for allowance, the Examiner is invited to contact the undersigned at the telephone number indicated below.

Respectfully submitted,


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Attachments:

Copy of Amendment filed 10/19/04 & date stamped receipt

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